



**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

Tentative Notice of Action

Promoting the wise use of

MEETING DATE May 2, 2014 EFFECTIVE DATE May 16, 2014	CONTACT/PHONE Stephanie Fuhs (805)781-5721 sfuhs@co.so.ca.us	APPLICANT Jennifer Babb-Zwarg	FILE NO. DRC2013-00067
SUBJECT Hearing to consider a request by Jennifer Babb-Zwarg for a Minor Use Permit to allow an existing 84 square foot farm stand to be located within 400 feet of a residence located outside the ownership of the applicant. A Minor Use Permit is required in order to waive the 400 foot distance standard contained in Section 22.30.075 of the Land Use Ordinance. The proposed project is within the Residential Suburban land use category and is located at 606 Crestmont Drive, approximately two miles south of the City of San Luis Obispo. The site is in the San Luis Obispo planning area.			
RECOMMENDED ACTION Approve Minor Use Permit DRC2013-00067 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
ENVIRONMENTAL DETERMINATION A Class One Categorical Exemption was issued on March 12, 2014 (ED13-179).			
LAND USE CATEGORY Residential Suburban	COMBINING DESIGNATION Airport Review	ASSESSOR PARCEL NUMBER 044-082-007	SUPERVISOR DISTRICT(S) 3
PLANNING AREA STANDARDS: 22.108.020 – Areawide Standards <i>Does the project meet applicable Planning Area Standards: Yes – see discussion</i>			
LAND USE ORDINANCE STANDARDS: Section 22.30.075 – Agricultural Retail Sales <i>Does the project conform to the Land Use Ordinance Standards: Yes - see discussion</i>			
FINAL ACTION This tentative decision will become final action on the project, effective on the 15 th day following the administrative hearing, or on May 16, 2014, if no hearing was requested unless this decision is changed as a result of information obtained at the hearing or is appealed.			
EXISTING USES: Single family residence, detached storage building, farm stand			
SURROUNDING LAND USE CATEGORIES AND USES: <i>North: Agriculture/Residence, Tolosa Winery East: Agriculture/vineyards</i> <i>South: Residential Suburban/Residences West: Agriculture & Residential Suburban/Residences</i>			
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Public Works, Environmental Health, Ag Commissioner, CalFire, CalTrans			
TOPOGRAPHY: Mostly level		VEGETATION: Grasses, ornamentals, orchard, gardens	
PROPOSED SERVICES: Water supply: On-site well Sewage Disposal: Individual septic system Fire Protection: CalFire		ACCEPTANCE DATE: February 26, 2014	
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242			

DISCUSSION

The property is the subject of a current code enforcement case for operation of a farm stand without proper permits. A Minor Use Permit is required because the operation is located within 400 feet of residences outside the ownership of the applicant. This Minor Use Permit seeks to legalize the farm stand and resolve the current enforcement case.

The applicant's proposal, through this Minor Use Permit, is to continue operating the farm stand from Thursdays through Sundays from 11am to dusk, from late winter until late fall. The stand is located at the corner of Highway 227 and Crestmont Drive, approximately two miles south of the City of San Luis Obispo.

PLANNING AREA STANDARDS

Section 22.108.020 - Areawide Standards: Requires land use applications to be referred to the City of San Luis Obispo because the site is located in the planning impact area. *The project was referred to the City of San Luis Obispo. No response was received.*

Section 22.108.030 – Airport Review Area: Land use permits must be found consistent with the San Luis Obispo County Airport Land Use Plan. *The project was referred to the airport planner who determined that the project is in compliance with the Airport Land Use Plan.*

LAND USE ORDINANCE STANDARDS

Section 22.30.075 – Agricultural Retail Sales: This section of the Land Use Ordinance sets forth standards for field stands and farm stands. The current proposal falls into the farm stand category because at least 50 percent of the floor area of the stand (42 square feet in this case) is dedicated to selling products that are grown or produced by the operator. The remaining square footage can be used for selling products grown offsite. Other non-food items such as water or soft drinks can be sold, but are limited to 50 square feet of the sales area. No food preparation is allowed except for sampling or tasting. This section also includes design standards, noticing requirements, and application content.

According to the Memorandum of Understanding between the applicant and the Environmental Health Department (attached), the agreement sets forth the food allowances at the farm stand. These allowances are in conformance with the Land Use Ordinance standards.

Currently, the stand is located at the property line and will need to be relocated 50 feet from the front property line (Highway 227) and 30 feet from the side property line (Crestmont Drive).

Because the stand was built without permits, the applicant will need to apply for an as-built construction permit and will need to comply with current applicable building codes.

Should the agricultural use that justified the agricultural sales be discontinued for more than one growing season, or if the applicant is unable to comply with the stipulations set forth in the Environmental Health Memorandum of Understanding, the agricultural sales use shall cease. This would require either the removal of the stand or conversion of the structure to an accessory building.

The project complies with the noticing requirements because property owners within 300 feet of the site were notified at least 10 days prior to the hearing date.

The applicant has provided a site plan, floor plans and elevations. A fire safety plan will be required with the construction permit and has been conditioned accordingly. A referral was sent to the Health Department. No comments were received regarding any additional facilities that would be required.

STAFF COMMENTS

The stand has been operating for several years in its current location without permits. This Minor Use Permit seeks to legalize and resolve the code enforcement issues of having the business operating with proper permits, location of the stand within 400 feet of surrounding residences, and selling products at a ratio in compliance with Land Use Ordinance and County Health Department regulations.

The stand is currently located at the northeastern property line. At its current location, and once the stand is relocated 50 feet from the property line, there are four residences within 400 feet of the agricultural sales (two off Highway 227 and two off Windmill Road). The nearest residence will be approximately 210 feet from the stand once it is moved to comply with setback standards. The other three residences will be between 300 and 350 feet of the operation. Because the stand is oriented toward Crestmont Drive and Highway 227 at the farthest point away from the nearest residences, staff is recommending that the permit be approved as submitted and revised with conditions of approval.

AGENCY REVIEW:

Public Works - Responded with "no concerns"

Environmental Health – Continue to operate in accordance with the Memorandum of Understanding dated

Ag Commissioner - No comments received

CalFire – No comments received

Cal Trans – No comments received

Building Division – See attached e-mail response

City of San Luis Obispo – No comments received

LEGAL LOT STATUS:

The one lot was legally created by a recorded map at a time when that was a legal method of creating lots.